

Congress of the United States
Washington, DC 20515

June 12, 2014

The Honorable Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Received & Inspected

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FCC Mail Room

Dear Chairman Wheeler:

We are writing to bring your attention to a recent letter we received from the Southern California Regional Rail Authority (Metrolink) and to ask for your personal attention to address the issues it raised, relating to its efforts to obtain the radio spectrum needed to continue to operate and implement positive train control (PTC) throughout Southern California. 14-597

As you know, the Rail Safety Improvement Act of 2008 mandated the installation of PTC for commuter and freight rail systems. This is an essential, life-saving technology necessary to enhance the safety of our nation's railroads. Metrolink is on track to be the first commuter railroad in the nation to implement PTC on its entire 512 mile system.

In March, 2010, Metrolink sought FCC approval of the acquisition and related necessary modifications and waivers for spectrum required to deploy its PTC system. Since that time, Metrolink has filed at least six applications and supplemental "Showings" with the FCC in an effort to navigate what has often been a very complicated and frustrating process. Despite repeated inquiries and applications, the situation remains unresolved.

In light of the difficulties with purchasing its own spectrum, Metrolink took the precautionary step of entering into a short-term lease of spectrum from PTC-220 LLC (an organization of freight railroad operators) for preliminary PTC purposes. The lease was always considered a stopgap measure to allow for continued development of PTC, but was never considered a long-term solution. Now, as Metrolink nears full implementation of its PTC system, in accordance with the federal mandate, the insufficiencies of the lease with PTC-220 are becoming increasingly clear. We are not alone in noting the importance of action related to the spectrum. The language in Section 9402 of the Administration's proposed GROW America Act requires cooperation between the Department of Transportation and the FCC to develop a plan to "assess spectrum needs and availability for implementing positive train control systems." While we are encouraged by the inclusion of this language, we are troubled that it is necessary and we look forward to resolution of this ongoing process.

Please note that we are not addressing the merits of the issues raised relative to Metrolink's applications. We fully expect the Commission to dispose of those issues consistent with its statutory authority and applicable administrative and judicial precedent. But we encourage and expect the Commission to take prompt steps to act on the Metrolink applications and related

waiver requests. In response to this letter, we would appreciate an estimate of when a decision resolving the Metrolink applications may be expected.

Thank you for your attention to this critical matter. Please do not hesitate to call on us if you have any questions or if you require additional information. Please note that a copy of this letter is being submitted to the FCC's public docket No. 13-85.

Sincerely,



COL. PAUL COOK (RET.)
Member of Congress



GARY MILLER
Member of Congress



ALAN LOWENTHAL
Member of Congress



ADAM SCHIFF
Member of Congress



ED ROYCE
Member of Congress



XAVIER BECERRA
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 14, 2014

The Honorable Paul Cook
U.S. House of Representatives
1222 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Cook:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and, as you indicated, will be included in the record of the proceeding and considered as part of the Commission's review.

PTC is a transformative technology that has the power to save lives, prevent injuries, and avoid extensive property damage. It is a top priority of the Commission to facilitate this important safety measure. FCC staff has been working, and will continue to work, with the Department of Transportation, the National Transportation Safety Board, railroads, and spectrum licensees to identify and facilitate secondary market transactions to make spectrum available for PTC operations.

With respect to Metrolink's specific requests, in April 2011, the Commission adopted an *Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing (OSC/HDO)*¹ designating Maritime Communications/Land Mobile, LLC's (MC/LM) basic qualifications to be a Commission licensee for hearing. The Commission also released a Public Notice, WT Docket 13-85, on March 28, 2013, which sought comment on whether the Commission should: (1) consent to the assignment of some or all of MC/LM's AMTS licenses to Choctaw under *Second Thursday*;² (2) consent to the assignment of some of MC/LM's AMTS licenses pursuant to footnote seven of the OSC/HDO; (3) waive the construction and discontinuance-of-service rules for MC/LM's AMTS site-based stations; and (4) terminate its formal hearing, partially or otherwise, regarding MC/LM's basic qualifications.³

¹ See Maritime Communications/Land Mobile, LLC, *Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing*, EB Docket No. 11-71, 26 FCC Rcd 6520 (2011) (OSC/HDO).

² See *Second Thursday Corp., Memorandum Opinion and Order*, 22 FCC 2d 515, *recon. granted, Memorandum Opinion and Order*, 25 FCC 2d 112 (1970) (permitting a bankrupt licensee, whose basic qualifications are at issue, to assign its licenses for the benefit of innocent creditors).

³ Comment Sought on Choctaw-MC/LM Assignment and Second Thursday Request, *Public Notice*, 28 FCC Rcd 3358 (WTB 2013).

The Commission may exercise its discretion to apply the *Second Thursday* doctrine where the individuals charged with misconduct “will have no part in the proposed operations and will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors.” Additionally, footnote seven of the OSC/HDO states that the public interest in facilitating implementation of PTC might warrant removing from the ambit of the hearing a pending application to assign spectrum from MC/LM to the Southern California Regional Rail Authority. Comments, petitions to deny, reply comments, oppositions to petitions to deny, and replies to oppositions were filed in the docket on May 9, May 30, and June 20 of 2013, respectively. Staff is currently reviewing that record.

I am required to state that this proceeding is restricted under the Commission’s *ex parte* rules (47 C.F.R. §§ 1.1200(a), 1.1208). Therefore, I am restricted from discussing the merits of this case but am hopeful that the Commission will take action within the next few months to advance this issue closer to a resolution. I recognize that the complexities of this issue are frustrating, but I am confident that the Commission can make a determination that is in the public interest, convenience and necessity in an efficient and timely manner.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 14, 2014

The Honorable Xavier Becerra
U.S. House of Representatives
1226 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Becerra:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and, as you indicated, will be included in the record of the proceeding and considered as part of the Commission's review.

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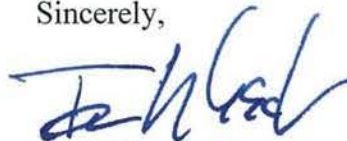
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 14, 2014

The Honorable Alan Lowenthal
U.S. House of Representatives
515 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Lowenthal:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and, as you indicated, will be included in the record of the proceeding and considered as part of the Commission's review.

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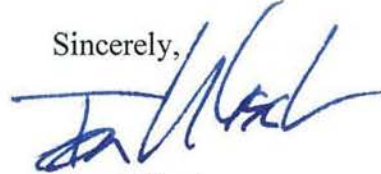
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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 14, 2014

The Honorable Gary Miller
U.S. House of Representatives
2467 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Miller:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and, as you indicated, will be included in the record of the proceeding and considered as part of the Commission's review.

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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 14, 2014

The Honorable Ed Royce
U.S. House of Representatives
2185 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Royce:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and, as you indicated, will be included in the record of the proceeding and considered as part of the Commission's review.

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OFFICE OF
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 14, 2014

The Honorable Adam Schiff
U.S. House of Representatives
2411 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Schiff:

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